

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

ERROL SMITH,

Petitioner,

vs.

ROBERT J. HERNANDEZ, Warden,

Respondent.

Civil No. 07-1401 BEN (WMC)

**ORDER TRANSFERRING ACTION  
TO UNITED STATES DISTRICT  
COURT FOR THE CENTRAL  
DISTRICT OF CALIFORNIA,  
WESTERN DIVISION**

Petitioner is a state prisoner proceeding pro se has filed a “Petition for Coram Vobis,” which this Court construes as a petition for habeas corpus filed pursuant to 28 U.S.C. § 2254.<sup>1</sup> Upon reviewing the petition, the Court finds that this case should be transferred in the interest of justice.

A petition for writ of habeas corpus may be filed in the United States District Court of either the judicial district in which the petitioner is presently confined or the judicial district in which he was convicted and sentenced. *See* 28 U.S.C. § 2241(d); *Braden v. 30th Judicial Circuit Court*, 410 U.S. 484, 497 (1973). The application in the present matter attacks a judgment of conviction that was entered in the Los Angeles County Superior Court, which is within the jurisdictional boundaries of the United States District Court for the Central District

<sup>1</sup> *See Maleng v. Cook*, 490 U.S. 488, 493 (1989) (stating that pro se petitions must be construed liberally).

1 of California, Western Division. 28 U.S.C. § 84(c)(2). Petitioner is presently confined at R. J.  
2 Donovan Correctional Facility, located in San Diego County, which is within the jurisdictional  
3 boundaries of the United States District Court for the Southern District of California. 28 U.S.C.  
4 § 84(d). Thus, jurisdiction exists in both the Central and Southern Districts.

5 When a habeas petitioner is challenging a judgment of conviction, the district court of the  
6 district in which the judgment of conviction was entered is a more convenient forum because of  
7 the accessibility of evidence, records and witnesses. Thus, it is generally the practice of the  
8 district courts in California to transfer habeas actions questioning judgments of conviction to the  
9 district in which the judgment was entered. Any and all records, witnesses and evidence  
10 necessary for the resolution of Petitioner's contentions are available in Los Angeles County. *See*  
11 *Braden*, 410 U.S. at 497, 499 n.15 (stating that a court can, of course, transfer habeas cases to  
12 the district of conviction which is ordinarily a more convenient forum); *Laue v. Nelson*, 279  
13 F. Supp. 265, 266 (N.D. Cal. 1968).

14 Therefore, in the furtherance of justice, **IT IS ORDERED** that the Clerk of this Court  
15 transfer this matter to the United States District Court for the Central District of California,  
16 Western Division. *See* 28 U.S.C. § 2241(d). **IT IS FURTHER ORDERED** that the Clerk of  
17 this Court serve a copy of this Order upon Petitioner and upon the California Attorney General.

18 DATED: August 6, 2007

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21 Hon. Roger T. Benitez  
22 United States District Judge  
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